

FILED

DEC 18 2014

RICHARD W. WIEKING
CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE

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10 Counsel for Defendant DAVID MARTINEZ

11 IN THE UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA

13 UNITED STATES OF AMERICA

14 Plaintiff, No. CR 10-00824-006 DLJ

v.

15 DAVID MARTINEZ,

16 Defendant. STIPULATION AND [PROPOSED]
17 ORDER REGARDING SENTENCE
18 REDUCTION UNDER U.S.S.G. § 1B1.1(b)
19 AND AMENDMENT 782

20 IT IS HEREBY STIPULATED AND AGREED, by and between the parties acting
21 through their respective counsel, that:

- 22 1. Defendant is making an unopposed motion for modification of his sentence pursuant to
23 18 U.S.C. § 3582(c)(2).
- 24 2. Defendant's original guideline calculation was as follows:
25 Total Offense Level: 27
26 Criminal History Category: I
27 Guideline Range: 70 to 87 months
28 Mandatory Minimum: None
3. Defendant was sentenced to 70 months imprisonment on June 14, 2012.

1 4. According to the Bureau of Prisons, Defendant's current projected release date is
2 December 14, 2015.

3 5. Effective November 1, 2014, this Court may order a modification in defendant's sentence
4 pursuant to 18 U.S.C. § 3582(c), USSG § 1B1.10(b)(1), and Amendment 782, to the
5 United States Sentencing Guidelines Manual.

6 6. Defendant's revised guideline calculation is as follows:
7 Total Offense Level: 25
8 Criminal History Category: I
9 Guideline Range: 57 to 71 months
10 Mandatory Minimum: None

11 7. The parties have no reason to dispute the Sentence Reduction Investigation Report
12 submitted to the Court by the Probation Office.

13 8. Based upon the foregoing, the parties hereby stipulate that the Court may enter an order
14 reducing Defendant's term of custody to "57 months, but not less than the time of
15 imprisonment that the Defendant has served as of November 1, 2015."

16 9. The parties further stipulate that the Court may include in its amended judgment a
17 recommendation to the Bureau of Prisons that the Defendant be transferred to a halfway
18 house at the appropriate time before his release on November 1, 2015.

19 10. The parties further stipulate that all other aspects of the original judgment order including
20 the length of term of supervised release, all conditions of supervision, fines, restitution,
21 and special assessment remain as previously imposed.

22 11. The parties further stipulate that the Court's Order will take effect on November 1, 2015.

23 12. Defendant stipulates that he waives and does not request a hearing pursuant to Fed. R.
24 Crim. P. 43, 18 U.S.C. § 3582(c)(2), and *United States v. Booker*, 543 U.S. 220 (2005).

25 13. Defendant waives his right to appeal the district court's sentence.

26 14. Accordingly, the parties agree that an amended judgment in accordance with this
27 stipulation may be entered by the Court in pursuant to 18 U.S.C. § 3582(c) and USSG §

28

1B1.10(b)(1), Amendment 782 of the Sentencing Guidelines Manual. A Sentencing
Reduction Investigation Report and a proposed amended judgment will be submitted to
the Court.

IT IS SO STIPULATED.

Dated: December 8, 2014

MELINDA L. HAAG
United States Attorney
/s/
J. DOUGLAS WILSON
Assistant United States Attorney

Dated: December 8, 2014

STEVEN G. KALAR
Federal Public Defender
/s/
SHILPI AGARWAL
Assistant Federal Public Defender

IT IS SO ORDERED.

Dated: Dec 18, 2014

BR
[PROPOSED] ORDER

B. R. Martínez
United States District Judge